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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,255	03/13/2001	Yoshiaki Tomomatsu	35.G2783	9122
5514	7590	01/26/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			THOMPSON, JAMES A	
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NEW YORK, NY 10112			PAPER NUMBER	

2624

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/804,255

Applicant(s)

TOMOMATSU, YOSHIAKI

Examiner

James A. Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2005 and 03 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5,9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,9 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 November 2005 has been entered.

### *Response to Arguments*

2. Applicant's arguments filed 03 November 2005 have been fully considered but they are not persuasive.

Examiner agrees that the present amendments to the claims are not found in the prior art cited in the previous office action, dated 17 June 2005 and mailed 29 June 2005. However, additional prior art has been discovered which renders the present amendments to the claims obvious to one of ordinary skill in the art at the time of the invention. Accordingly, prior art rejections are given in detail below.

Furthermore, the Official Notice given in the arguments regarding claim 3 (item 5 below and item 5 in said previous office action) have not been timely contested. Therefore, said Official Notice of well-known prior art is considered to be accepted by Applicant as old, well-known and expected in the art.

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 5, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (US Patent 6,008,812) in view of Yamada (US Patent 4,672,462) and Clouthier (US Patent 5,949,964).

**Regarding claims 1, 9 and 11:** Ueda discloses an image processing apparatus (figure 1 of Ueda) for processing an input image that contains a plurality of objects (figure 10; and column 16, lines 40-42 and lines 45-48 of Ueda) comprising identifying means (figure 1(11)(portion)) of Ueda) for identifying the types of objects (column 5, lines 25-28 of Ueda) based on a rendering command (column 4, lines 54-58 and column 5, lines 3-8 of Ueda). The CPU (figure 1(12) of Ueda) loads the software programs (column 4, lines 62-64 of Ueda), wherein said software programs include illustration image editing software, word processing software, and others (column 4, lines 37-43 of Ueda), and executes said software programs based on the type of image data (column 5, lines 3-7 of Ueda), said image data types including photographic image data, text data, and others (column 5, lines 24-28 of Ueda). Said image data types are combined into a single composite image (column 4, lines 54-55 of Ueda), which is, by definition, rendering said composite image. The

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rendering command statements that are entered via the various software programs must inherently be analyzed in order to determine which software programs are used to edit and render which portion of the composite image data.

Ueda further discloses means (figure 1(11(portion)) of Ueda) for obtaining an image correction condition (column 17, lines 24-28 and lines 32-37 of Ueda) based on image characteristics of a specific type of object (column 17, lines 18-24 of Ueda); image correcting means (figure 1(11 (portion)) of Ueda) for correcting the input image (column 25, lines 55-59 of Ueda) related to the specific type of object by using said image correction condition (column 26, lines 3-8 of Ueda); and developing means (figure 1(11(portion)) of Ueda) for developing raster data based on said rendering command (column 26, lines 31-36 of Ueda), wherein if an image area has said specific type of object (figure 11 and column 5, lines 56-58 of Ueda), said rendering command is inputted a plurality of times during operation of said identifying means, said obtaining means, said correcting means, and said developing means (column 5, lines 59-65 of Ueda). Based on the specific type of image to be rendered (figure 11 and column 5, lines 61-65 of Ueda), a specific rendering command statement is used (column 5, lines 56-61 of Ueda). The specific rendering commands are a part of the various software programs that are used (column 4, lines 54-58 of Ueda) and are initially input by the CPU, along with the various types of data to be processed (column 4, lines 62-67 of Ueda) and therefore must be re-input to be executed.

The microcomputer portion (figure 1(11) of Ueda) of the apparatus (figure 1 of Ueda) includes a CPU (figure 1(12) of Ueda), which performs the various operations of said apparatus

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(column 4, line 61 of Ueda), a program memory (figure 1(13) of Ueda), a working memory (figure 1(14) of Ueda), and an image memory (figure 1(16) of Ueda) (column 4, lines 19-24 of Ueda). The identifying means, obtaining means, correcting means, and developing means are the corresponding portions of the physically embodied software programs that are executed by the microprocessor and thus perform the operations of said identifying means, said obtaining means, said correcting means, and said developing means.

Ueda does not disclose expressly that said developed raster data, and thus said image area, is of a predetermined size; that, when said identifying means fails to identify the specific type of object, said rendering command is inputted one time during the operation of said identifying means and said developing means.

Yamada discloses organizing multiple image regions of a single image into image areas of a predetermined size (figure 2; figure 6; and column 4, lines 17-29 of Yamada).

Ueda and Yamada are combinable because they are from the same field of endeavor, namely the control, correction and rendering of image data. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to set the image areas taught by Ueda according to a predetermined template, as specifically taught by Yamada. The motivation for doing so would have been using a predetermined template would eliminate the computationally intensive procedure of Ueda whereby the image regions are determined (see figure 4 of Ueda and column 2, lines 17-36 of Yamada). Therefore, it would have been obvious to combine Yamada with Ueda.

Ueda in view of Yamada does not disclose expressly that, when said identifying means fails to identify the specific type of object, said rendering command is inputted one time during the operation of said identifying means and said developing means.

Clouthier discloses that, when the identifying means fails to identify the specific type of object (column 3, lines 39-43 of Clouthier), said rendering command is inputted one time during the operation of said identifying means and said developing means (column 4, lines 9-13 of Clouthier). If the specific type of an object is not identified, said object is assumed to be raster image data (column 3, lines 39-43 of Clouthier). It can therefore directly be part of the received image data (column 4, lines 9-13 of Clouthier), since said object is already in raster format, and therefore does not need image correction commands to be re-input and thus has only be inputted one time.

Ueda in view of Yamada is combinable with Clouthier because they are from the same field of endeavor, namely the control, correction and rendering of image data. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to designate an object as a default raster image data type if said object is not identifiable, as taught by Clouthier, and therefore have no image corrections performed on said object. The motivation for doing so would have been that, if an object is not identifiable, then clearly it would not be logical to perform image correction upon said object. Objects that are identifiable are corrected based on the specific designation (column 5, lines 56-65 of Ueda), but if there is no designation, then there are no criteria by which to perform

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image correction. Therefore, it would have been obvious to combine Clouthier with Ueda in view of Yamada to obtain the invention as specified in claims 1, 9 and 11.

Further regarding claim 1: The apparatus of claim 9 performs the method of claim 1.

Further regarding claim 11: The apparatus of claim 9 comprises the program embodied on a recording medium recited in claim 11.

**Regarding claim 2:** Ueda discloses that said specific type of object is a photographic image (figure 11 and column 5, lines 25-31 of Ueda).

**Regarding claim 5:** Ueda discloses a dividing step for dividing said input image containing said plurality of objects into a plurality of portions (figure 9 and column 8, lines 41-46 of Ueda). In the example of figure 9 of Ueda, all of the photographic partial images (figure 9(52a-52m) of Ueda) are placed in a photographic portion (figure 9(52) and column 8, lines 47-49 of Ueda). Further, another photographic region is formed (figure 9(54) and column 8, lines 49-52 of Ueda), two separate text regions are formed (figure 9(56,58) and column 8, lines 52-55 of Ueda), and a graphic image regions is formed (figure 9(60) and column 8, lines 55-57 of Ueda).

Ueda does not disclose expressly a setting step for setting an image area position; and a fetching step for fetching the rendering command related to the set image area position.

Yamada discloses a setting step for setting an image area position (figure 2 and column 4, lines 5-10 of Yamada); and a fetching step for fetching the rendering command related to the set image area position (figure 2 and column 4, lines 10-15 of Yamada).



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Ueda and Yamada are combinable because they are from the same field of endeavor, namely the control, correction and rendering of image data. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to set the image areas taught by Ueda according to a predetermined template and fetch said template for said set image areas when the image data is to be rendered, as specifically taught by Yamada. The motivation for doing so would have been using a predetermined template would eliminate the computationally intensive procedure of Ueda whereby the image regions are determined (see figure 4 of Ueda and column 2, lines 17-36 of Yamada). Therefore, it would have been obvious to combine Yamada with Ueda to obtain the invention as specified in claim 5.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (US Patent 6,008,812) in view of Yamada (US Patent 4,672,462), Clouthier (US Patent 5,949,964), and well-known prior art.

**Regarding claim 3:** Ueda discloses an outputting step for outputting data representing the corrected object to an image forming unit (figure 1(24) and column 5, lines 14-19 of Ueda).

Ueda further discloses that said rendering command is inputted using software (column 4, lines 54-58 of Ueda). Therefore, said rendering command statements are inherently input from an operating system, which resides on a computer (figure 1(11) of Ueda), since said software inherently requires an operating system in order to be loaded onto a computer and be executed on said computer.

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Ueda in view of Yamada and Clouthier does not disclose expressly that said image processing method is executed by a printer driver.

It is accepted as well-known in the art that performing image processing using a printer driver and inputting commands from an operating system which resides on a computer are old, well-known, and expected in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a printer driver for performing image processing since printer drivers are common means of performing image processing for the particular printer to which the resultant image is to be output.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda (US Patent 6,008,812) in view of Yamada (US Patent 4,672,462), Clouthier (US Patent 5,949,964), and Kim (US Patent 5,963,665).

**Regarding claim 4:** Ueda in view of Yamada and Clouthier does not disclose expressly that said obtaining step calculates said image correction condition based on a histogram of the specific type of object.

Kim discloses plotting a histogram of each object (frame) of an image (column 5, lines 47-52 of Kim) and corrects each object of the image under a condition for image correction drawn from the histogram (column 4, lines 48-53 of Kim).

Ueda in view of Yamada and Clouthier is combinable with Kim because they are from the same field of endeavor, namely the processing and correction of image data. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to plot a histogram for an object, as taught by

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Kim, when a type of object is a specific type and using a rendering command statement that specifies rendering of the object, as taught by Ueda. The histogram would also be used to determine the condition for correcting the object, as taught by Kim. The motivation for doing so would have been to enhance the quality of the resulting image by compensating for the brightness levels of the different image frames (column 5, lines 36-40 of Kim). Therefore, it would have been obvious to combine Kim with Ueda in view of Yamada and Clouthier to obtain the invention as specified in claim 4.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



10 January 2006

James A. Thompson  
Examiner  
Art Unit 2624



THOMAS D.